

May 22, 2020

The Honorable Holly Mitchell, Chair
Senate Budget Committee
State Capitol, Room 5050
Sacramento, CA 95814

The Honorable Phil Ting, Chair
Senate Budget Committee
State Capitol, Room 6026
Sacramento, CA 95814

RE: Advocates Opposition to May Revision Proposal to Cut Medi-Cal Access to Seniors

Dear Senator Mitchell and Assemblymember Ting,

Western Center on Law & Poverty and the over 64 undersigned organizations urge the Legislature to oppose cuts proposed in the Governor's May Revision that would reduce access to health care for California's low-income seniors. Throughout the pandemic, many of us have sheltered in place to protect those most vulnerable to the effects of COVID-19. We cannot turn back on our commitment to continue to provide the care many of these same people need to stay healthy, remain in their homes, and not fear enrolling in Medi-Cal.

1. Estate Recovery

We oppose the reinstatement of the harmful Medi-Cal estate recovery policy that take the home of poor families, primarily homes owned by Black, Latinx, and API families. The Governor is proposing to go beyond the federal requirement to recover the cost of nursing home care received after age 55 to instead recover for all Medi-Cal services paid for the health care of older Medi-Cal beneficiaries, including the payment made every month to Medi-Cal plans even when no health services are used. Advocates originally worked on limiting estate recovery because we heard many stories of older adults refusing to enroll in Medi-Cal or even disenrolling for fear the state will put a lien on the family home when they die. The last thing we need during a pandemic is a punitive rule that will cause older Californians to go without care and which exacerbates the racial disparities in intergenerational wealth transfers as this targets the modest homes of poor communities of color. We cannot envision how this will be implemented. Will the state send notices to everyone over age 55 telling them they must disenroll from Medi-Cal or face losing their home after they die? Is this the message we want to send out during a pandemic? Will the state actually try to displace younger relatives of the deceased who may still be living in a parent or grandparent's home when few housing options are available to low-income families? Where will the "savings" come from? Federal guidance says that states may not increase cost sharing on beneficiaries if they want to receive the additional federal match funds for the duration of the emergency.¹

2. Medi-Cal Benefit Cuts

¹ See [COVID-19 Frequently Asked Questions \(FAQs\) for State Medicaid and Children's Health Insurance Program \(CHIP\) Agencies](#), Center for Medicare and Medicaid Services, last updated May 5, 2020, p. 26, Q 3.



We also oppose the numerous benefit cuts that threaten the health and independence of our seniors. Many of the “optional” benefits cuts are essential health benefits for seniors. For example, cutting partial dentures will see the return of removal healthy teeth to qualify for full dentures; hearing aids; vision exams and eyewear; podiatry which is needed to reduce the racial disparities in diabetes-related amputations²; occupational therapy which allows seniors to move safely about their home or eat after a stroke or an accident; physical therapy which is often used when someone needs to relearn to walk; speech therapy which is often needed after someone spends time on a ventilator; audiology; nurse anesthetist services; pharmacist-delivered services; incontinence cream and washes; and the Diabetes Prevention Program. We cannot care for the health of our seniors or address the health care needs caused by COVID-19 without access to these services.

Additionally, we oppose the proposals to cut Community Based Adult Services, Multi-Purpose Senior Services, and reduction in hours to In-Home Supportive Services. All of these services are designed to keep people safely in their homes and communities and avoid institutionalizing people in nursing home care. Under the best of times, removing the community supports that would require someone to live in an institution is a violation of Title II of the Americans with Disabilities Act. Right now, it is also extremely dangerous as recent statistics show 49% of California’s COVID-19 deaths have been in nursing homes and assisted living facilities.³ We also believe this violates the recent federal requirement to maintain the same level of services that were available at the start of the emergency period to receive the additional federal funds for our Medi-Cal program.⁴

3. Eligibility Cuts

We also oppose cutting scheduled improvements in eligibility for seniors. In last year’s budget, California finally provided parity to seniors and persons with disabilities who were subject to a lower income eligibility limit than most other adults. Most other adults are eligible for free Medi-Cal with incomes up to 138% of the federal poverty level (FPL), but seniors and persons with disabilities are subject to a lower income eligibility threshold of about 123% FPL, about \$165 less a month. If we repeal this now, individuals who fall in this gap will be stuck paying over \$700 a month to access needed health care services throughout the pandemic and those who turn 65 during this crisis will lose access to free Medi-Cal as soon as the temporary freeze on terminations ends.

In addition, we oppose the repeal of AB 1088 passed by the Legislature last year to stop seniors and adults with disabilities from yo-yoing or flipping between free and share of cost Medi-Cal. This fixes complicated income counting rules that deduct an individual’s out-of-pocket payment of the Medicare Part B premium from their income, but stop deducting that payment when it comes from the state as a benefit of free Medi-Cal. This creates a nonsensical loop—a senior can yo-yo on and off of the free Medi-Cal program simply because of the difference created by one income deduction, despite no change in their actual income. We should be stabilizing health care coverage, not adding eligibility rules that create chaos to enrollees and additional work for already burdened county

² See e.g. [Diabetic Amputations A ‘Shameful Metric’ Of Inadequate Care](#), May 1, 2019, reporting Black and Latinx patients were more than twice as likely to undergo amputations related to diabetes in California.

³ <https://www.latimes.com/california/story/2020-05-08/california-coronavirus-deaths-nearly-half-linked-to-elder-care-facilities>

⁴ See [COVID-19 Frequently Asked Questions \(FAQs\) for State Medicaid and Children’s Health Insurance Program \(CHIP\) Agencies](#), Center for Medicare and Medicaid Services, last updated May 5, 2020, p. 26, Q 3.



workers for a small “savings” of \$209,000. Both issues were to be implemented January 2020, and thus should be covered by the Families First legislation, but due to technical delays, both were delayed to August 2020.

Finally, we were disappointed that the May Revision did not include Medi-Cal expansion to income-eligible undocumented adults. Few groups are more at risk to the health or economic effects of COVID-19 than seniors who are undocumented, and often working low-wage high-risk jobs.

Conclusion

We urge the Legislature to not balance the budget on cuts to older Californians and search for other ways to pay for the health care that is needed in our state. For any questions, please contact Linda Nguy at lnguy@wclp.org.

Sincerely,

Acacia Adult Day Services
Alliance for Leadership and Education
Alzheimer's Family Services Center
Alzheimer's Orange County
APLA Health
Bay Area Community Services
Bay Area Legal Aid
Bet Tzedek Legal Services
CA Association of Public Authorities for IHSS
CA Food Policy Advocates
California Advocates for Nursing Home Reform
California Association for Adult Day Services
California Association of Health Facilities
California Commission on Aging
California Council of the Blind
California Foundation for Independent Living Centers
California Health Advocates
California IHSS Consumer Alliance
California Partnership
California State University, Los Angeles
CalPACE
Center for Health Care Rights
Central California Legal Services
Coachella Valley Immigrant Dignity Coalition
Community Health Councils
Courage California
Delivering Smiles
Desert AIDS Project



Disability Rights California
ElderHelp of San Diego
Friends Committee on Legislation of California
Get Screened Oakland
Health Access California
Health Consumer Alliance*
Justice in Aging
Latino Coalition for a Healthy CA
Legal Aid Foundation of Los Angeles
Legal Aid Society of San Diego, Inc.
Legal Aid Society of San Mateo County
LifeLong Medical Care
LifeSTEPS
Los Angeles LGBT Center
Maternal and Child Health Access
Multipurpose Senior Services Program Site Association
National Association of Social Workers (NASW) California Chapter
National Health Law Program
Neighborhood Legal Services of Los Angeles County
Ombudsman Services of Contra Costa, Solano and Alameda
Partners in Care Foundation
Personal Assistance Services Council
Public Law Center
Radiant Health Centers
San Francisco AIDS Foundation
San Francisco Community Health Center
Senior Advocates of the Desert
SoCal Senior Services
The National Multiple Sclerosis Society
The Spahr Center
UDW/AFSCME Local 3930
VietRISE
Women Organized to Respond to Life-threatening Diseases (WORLD)
Yolo Healthy Aging Alliance
Young Invincibles
Yu-Ai Kai Japanese American Community Senior Center
Western Center on Law and Poverty

*The Health Consumer Alliance is a collaborative of consumer assistance programs operated by community-based legal services organizations, including Bay Area Legal Aid, California Rural Legal Assistance, Central California Legal Services, Greater Bakersfield Legal Assistance, Legal Aid Society of Orange County, Legal Aid Society of San Diego, Legal Aid Society of San Mateo, Legal Services of Northern California, Neighborhood Legal Services of Los Angeles County, the National Health Law Program, and the Western Center on Law and Poverty.